

FRED L. HARRIS	§	
v.	§	CIVIL ACTION NO. 9:08cv208
DIRECTOR, TDCJ-CID	§	

769 (5th Cir. 2007) and Morgan v. Dretke, 433 F.3d 455 (5th Cir. 2005) in support of his contentions.

In Teague, the Fifth Circuit held that the deprivation of any amount of good time was not *de minimis* and required the protections of due process where a liberty interest was implicated. With regard to the question of a liberty interest, the Court stated as follows:

Here, Teague's petition is premised on the claim that the Texas mandatory supervision scheme provides him with a protected liberty interest in his previously earned good time credits, so that Texas may not deprive him of such credits without first affording him the requisite due process.

Teague, 482 F.3d at 774. In the present case, by contrast, Harris conceded that he was not eligible for mandatory supervision at all. As the Magistrate Judge stated, Harris has failed to show the deprivation of a constitutionally protected liberty interest, and so his habeas corpus petition is without merit.

In Morgan, the Fifth Circuit held that there must be "some evidence" to support a finding of guilt in a prison disciplinary case. With regard to the question of a liberty interest, the Fifth Circuit explained as follows:

We note here for completeness' sake that it is the protected liberty interest in good time credits that implicates due process concerns and that state law determines whether good time credits constitute a protected liberty interest in a given state.

Morgan, 433 F.3d at 457 n.2. In this case, because Harris is not eligible for release on mandatory supervision, the deprivation of good time credits affects only the possibility of release on parole, in which he has no constitutional expectancy, and so no liberty interest is implicated. See Richards v. Dretke, 394 F.3d 291, 204 (5th Cir. 2004); Malchi v. Thaler, 211 F.3d 953, 956 (5th Cir. 2000). Because no liberty interest is implicated, Harris has failed to show a valid basis for habeas corpus relief, and his objections to the Report of the Magistrate Judge are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the original petition, the Report of the Magistrate Judge, and the Petitioner's objections thereto. Upon such review, the Court has determined that the Magistrate Judge's Report is correct and that the Petitioner's objections are without merit. It is accordingly


ORDERED that the Petitioner's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED with prejudice. It is further

ORDERED that the Petitioner Fred L. Harris is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this the **25** day of **November, 2008**.


Thad Heartfield
United States District Judge